

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

**RHONDA HUBBARD,**

Plaintiff,

vs.

**RCM TECHNOLOGIES (USA), INC.,**

Defendant.

CASE NO. 19-cv-6363-YGR

**ORDER GRANTING PRELIMINARY  
APPROVAL OF CLASS ACTION  
SETTLEMENT AND SETTING DEADLINES  
FOR NOTICE, OBJECTION, EXCLUSION, AND  
FINAL FAIRNESS HEARING**

Re: Dkt. No. 40

On May 11, 2021, the Court held a hearing on the unopposed motion of plaintiff Rhonda Hubbard's for preliminary approval of the parties' proposed settlement; approval of the proposed Class Notice; appointing Class Representative, Class Counsel and the proposed Settlement Administrator; and setting a date for the hearing on final approval of the settlement. (Dkt. No. 40.) Matthew Hayes of Hayes Pawlenko LLP appeared for plaintiff, and William Weissman of Littler Mendelson PC appeared for defendant RCM Technologies (USA), Inc.

Having considered the motion briefing, the arguments of counsel, the relevant law, the terms of the settlement agreement and the class notice, as well as the record in this case, and based on the reasons and terms set forth herein, the Court **GRANTS** the parties' motion for preliminary approval of class action settlement.

**1. Class Definition**

By Order dated October 20, 2020 (Dkt. No. 35), the Court certified the Class as follows:

All non-exempt hourly employees employed by RCM in California who, at any time, within four years prior to the filing of this lawsuit through the date of class certification, worked one or more workweeks in which they were paid overtime and received a weekly per diem or stipend.

The parties do not seek to certify a new class for settlement. Rather, the settlement is on behalf of the individuals who are members of the Rule 23 class that the Court previously certified. Accordingly, the Class has already been defined.

**2. Class Representatives and Class Counsel**

Plaintiff Rhonda Hubbard is appointed the Class Representatives. Hayes Pawlenko LLP is appointed Class Counsel.

**3. Settlement Agreement**

The settlement agreement, a copy of which is attached hereto as Exhibit A (“Settlement Agreement”), is granted preliminary approval pursuant to Rule 23(e)(2). Based upon the information before the Court, the Settlement Agreement falls within the range of possible approval as fair, adequate and reasonable, and there is a sufficient basis for notifying the Class and for setting a Fairness and Final Approval Hearing.

The Settlement Agreement appears to have been the product of arm’s length and informed negotiations. The relief provided for the Class appears to be adequate, taking into account:

(i) the costs, risks, and delay of trial and appeal;

(ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;

(iii) the terms of any proposed award of attorney’s fees, including timing of payment; and

(iv) any agreements required to be identified under Rule 23(e)(3) (in this case, none).

Moreover, the Settlement Agreement appears to treat Class members equitably relative to each other.

**4. Plan of Allocation**

The Court preliminarily approves the proposed plan of allocation set forth in the Motion and the Class Notice. Class members will receive a settlement share unless they submit a valid and timely request for exclusion not later than **August 20, 2021**.

**5. Notice Plan**

The parties’ proposed notice plan appears to be constitutionally sound in that plaintiff has made a sufficient showing that it is: (i) the best notice practicable; (ii) reasonably calculated, under the circumstances, to apprise the Class members of the proposed settlement and of their right to object or to exclude themselves as provided in the settlement agreement; (iii) reasonable and constitute due, adequate, and sufficient notice to all persons entitled to receive notice; and (iv)

1 meet all applicable requirements of due process and any other applicable requirements under  
2 federal law.

3 The Court approves the form of the proposed Class Notice attached as Exhibit B to this  
4 Order with the exception of the typographical error discussed at the hearing to be corrected.  
5 Taken together these notices are sufficient to inform Class members of the terms of the Settlement  
6 Agreement, their rights under the Settlement Agreement, their rights to object to or comment on  
7 the Settlement Agreement, their right to receive a payment or opt out of the Settlement  
8 Agreement, the process for doing so, and the date and location of the Fairness and Final Approval  
9 hearing, and are therefore **APPROVED**.

#### 10 **6. Settlement Administrator**

11 ILYM Group, Inc. is appointed to act as the Settlement Administrator, pursuant to the  
12 terms set forth in the Settlement Agreement.

13 The Settlement Administrator shall distribute the Class Notice according to the notice plan  
14 described in the Settlement Agreement and substantially in the form approved herein, no later than  
15 **June 21, 2021** ("Notice Date"). Proof of distribution of the Class Notice shall be filed by the  
16 parties in conjunction with the motion for final approval.

17 Defendant is directed to provide to the Settlement Administrator the Class members'  
18 contact data as specified by the Settlement Agreement no later than **June 1, 2021**.

#### 19 **7. Exclusion/Opt-Out**

20 Any Class Member shall have the right to be excluded from the Class by mailing a request  
21 for exclusion to the Settlement Administrator no later than **August 20, 2021**. Requests for  
22 exclusion must be in writing and set forth the name and address of the person who wishes to be  
23 excluded, and must be signed by the class member seeking exclusion. No later than **October 12,**  
24 **2021**, Class Counsel shall file with the Court a list of all persons or entities who have timely  
25 requested exclusion from the Class as provided in the Settlement Agreement.

26 Any Class Member who does not request exclusion from the settlement class as provided  
27 above shall be bound by the terms and provisions of the Settlement Agreement upon its final  
28 approval, including but not limited to the releases, waivers, and covenants described in the

Settlement Agreement, whether or not such person or entity objected to the Settlement Agreement and whether or not such person or entity makes a claim upon the settlement funds.

### 8. Objections

Any Class Member who has not submitted a timely request for exclusion from the Settlement Agreement shall have the right to object to (1) the Settlement Agreement, (2) the plan of allocation; and/or Class Counsel's motion for attorneys' fees and Class Representative Awards by mailing to the Settlement Administrator a written objection and stating whether they intend to appear at the Fairness Hearing, as set forth in the Class Notice, no later than **August 20, 2021**. Failure to submit a timely written objection will preclude consideration of the Class Member's later objection at the time of the Fairness Hearing.

### 9. Attorneys' Fees and Class Representative Awards

Plaintiff and her counsel shall file her motion for attorneys' fees and for Class Representative awards no later than **July 12, 2021**. Counsel is reminded that the Court does not typically award thirty-three percent (33%) of the gross settlement fund as fees and that any request for the same will need to be accompanied by detailed time records. Each settlement class member shall have the right to object to the motion for attorneys' fees and Class Representative awards by filing a written objection with the Court no later than **August 20, 2021**, as stated in paragraph 8 above.

Plaintiffs shall file a reply brief responding to any timely objection no later than **August 27, 2021**.

### 10. Fairness and Final Approval Hearing

All briefs, memoranda and papers in support of final approval of the settlement shall be filed no later than **September 21, 2021**.

The Court will conduct a Fairness and Final Approval Hearing on **Tuesday, October 26, 2021, at 2:00 p.m.**, to determine whether the Settlement Agreement should be granted final approval as fair, reasonable, and adequate as to the Class. The Court will hear all evidence and argument necessary to evaluate the Settlement Agreement and will consider Class Counsel's motion for attorneys' fees and for Class Representative awards.

Class members may appear, by counsel or on their own behalf, to be heard in support of or opposition to the Settlement Agreement and Class Counsel's Motion for attorneys' fees and Class Representative awards by filing a Notice of Intention to Appear no later than **October 19, 2021**.

The Court reserves the right to continue the date of the final approval hearing without further notice to Class members.

The Court retains jurisdiction to consider all further applications arising out of or in connection with the Settlement.

### **11. Post-Distribution Accounting**

If final approval is granted, the parties will be required to file a Post-Distribution Accounting in accordance with this District's Procedural Guidance for Class Action Settlements and at a date set by the Court at the time of the final approval hearing. Counsel should prepare accordingly.

<b>Summary of Key Dates</b>	
<b>Event</b>	<b>Date</b>
Class data to be provided to Settlement Administrator	June 1, 2021
Class Notice to be sent by	June 21, 2021
Class Counsel to file their motion for fees and costs and Class Representative awards	July 12, 2021
Postmark deadline to submit objection or request for exclusion	August 20, 2021
Motion for Final Approval to be filed by	September 21, 2021
Class Counsel and Settlement Administrator to submit supplemental statements regarding status of notice program, objections, opt-outs	October 12, 2021
Fairness and Final Approval Hearing	October 26, 2021
	NOTE: Subject to change without further notice to the Class.

**IT IS SO ORDERED.**

This terminates Docket No. 40.

Dated: May 12, 2021

  
**YVONNE GONZALEZ ROGERS**  
**UNITED STATES DISTRICT COURT JUDGE**